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— filing

ORIGINAL
FILED
JUL 26 2007
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
ENCLAS

ADR
JCS

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

U-HAUL COMPANY OF CALIFORNIA,
Inc., a California corporation,

Plaintiffs,

V.

NORTHWEST STAFFING RESOURCES, INC., an Oregon corporation; RESOURCE STAFFING GROUP, INC., an Oregon corporation; DULCICH STAFFING, LLC, an Oregon limited liability corporation; and DOES 1 TO 25 inclusive,

Defendants.

**NOTICE OF REMOVAL OF ACTION
TO FEDERAL COURT 28 U.S.C. § 1332
and 1441(b); Diversity of Citizenship
Jurisdiction, or in the alternative,
Federal Question Jurisdiction**

Complaint Filed June 27, 2007

TO CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that Defendants RESOURCE STAFFING GROUP, INC., an Oregon corporation and DULCICH STAFFING, LLC, an Oregon limited liability corporation ("Defendants") hereby remove to this Court the state court action described below.

1. On June 27, 2007, Plaintiff U-HAUL COMPANY OF CALIFORNIA, Inc., a California corporation, ("Plaintiff") commenced the action of U-HAUL

1 COMPANY OF CALIFORNIA, Inc., a California corporation v. NORTHWEST STAFFING
2 RESOURCES, INC., an Oregon corporation (hereafter "NORTHWEST STAFFING");
3 RESOURCE STAFFING GROUP, INC., an Oregon corporation; (hereafter "Defendant RSG")
4 DULCICH STAFFING, LLC, an Oregon limited liability corporation (hereafter "DULCICH
5 STAFFING"); and DOES 1 TO 25 inclusive, in the Superior Court of the State of California,
6 County of Orange, Case No. 07CC07370, by filing a complaint ("Complaint") against the named
7 Defendants. On July 6, 2007, Plaintiff served the Complaint and State Court Summons on
8 Defendant RSG. Plaintiff served Defendant DULCICH STAFFING on July 9, 2007. To the
9 knowledge of the undersigned Defendants, Plaintiff has not served Defendant NORTHWEST
10 STAFFING. Defendants Resource Staffing and DULCICH STAFFING have not filed an answer
11 or other responsive pleading in the State Court but will do so in this Court consistent with FRCP
12 81(c) and 12(a)(b). A copy of the complaint and incorporated exhibits are attached as Exhibit A.
13 Defendant NORTHWEST STAFFING has not yet been served and will timely file an appropriate
14 responsive pleading if and when it has been served.

15 2. Plaintiff's Complaint alleges Fraudulent Inducement, Fraud, Unlawful, Unfair and
16 Fraudulent Business Practices, False and Misleading Advertising, Aiding and Abetting, Breach
17 of Contract, Contractual Indemnity, Equitable Indemnity and Contribution. The Complaint seeks
18 unspecified damages, attorneys fees and costs. The Complaint demands reimbursement of "over
19 \$279,000.00 in back pay liability, among other damages," as well as unspecified attorneys fees,
20 which are claimed as recoverable as a matter of contract.

21 3. Previous correspondence between counsel for the parties indicate that Plaintiff's
22 claimed damages are in excess of \$ 900,000.00, including more than \$500,000.00 in "Attorneys
23 Fees."

24 4. Named Defendants NORTHWEST STAFFING (as yet not served) and DULCICH
25 STAFFING, LLC, are respectively an Oregon Corporation and an Oregon Limited Liability
26 Corporation, with their principal places of business in Portland, Oregon.

27 5. Defendant Resources Staffing is an Oregon Corporation with its
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1 principal place of business in Portland, Oregon, and is doing business or has engaged in business
2 in California, Nevada and Arizona.

3 6. This Notice of Removal has been timely filed under 28 U.S.C. Section 1446(b)
4 because it was filed within thirty (30) days of Defendant RSG's receipt of Plaintiff's Complaint.

5 7. Diversity: This is a civil action in which this Court has original jurisdiction under
6 28 U.S.C. section 1332, and is one that may be removed to this Court by Defendants pursuant to
7 28 U.S.C. section 1441(b) because complete diversity of citizenship exists in that Defendants
8 RSG, NORTHWEST STAFFING and DULCICH STAFFING are incorporated and operate their
9 principal place of business in Oregon. Inasmuch as Plaintiff pleads that the amount in
10 controversy in this action exceeds \$200,000.00, and has indicated that the amount in controversy
11 exceeds \$900,000.00, diversity of citizenship exists and the amount in controversy is sufficient
12 for removal.

13 8. Federal Question: In the alternative, Plaintiff's complaint at ¶¶ 24, 26, 29, 31, 32,
14 33, 36 and 37 alleges inter alia that Defendants' alleged repudiation of contract was in derogation
15 of obligations they allegedly had to Plaintiff with regard to representation and unfair labor
16 practice proceedings before the National Labor Relations Board under the National Labor
17 Relations Act, and that Defendants caused Plaintiff to incur back pay, fringe benefit and other
18 liability to certain individuals under the National Labor Relations Act which it would not
19 otherwise have incurred, including the payment to workers of "net wages and fringe benefits"
20 (Complaint Exhibit B ¶ 21 and Exhibit C) had Defendants not withdrawn from a certain contract
21 when it did, as well as attorneys fees to defend the representation and unfair labor practice
22 proceeding. Thus, the issues raised by Plaintiff and the facts plead in support of them would
23 substitute its own liability for wages and for fringe benefits covered by the Federal Employee
24 Retirement and Income Security Act and under federal law with Defendants', in derogation of
25 federal statutory law.

26 9. Venue is proper in the United States District Court for the Northern District of
27 California pursuant to 28 U.S.C. section 1391(b) because the action arose within this judicial
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1 district.

2 10. Consequently, this is a civil action of which this Court has original jurisdiction
3 under 28 U.S.C. § 1331 and which may be removed to this Court by Defendants pursuant to the
4 provisions of 29 U.S.C. § 1001 et. seq., 29 U.S.C. 1144 (a) and 29 U.S.C. 1132 (a).

5 11. As noted above, Defendants in this matter are Oregon corporations and an
6 Oregon Limited Liability Corporation, although only Defendant RSG and DULCICH
7 STAFFING, LLC have been served.

8 12. For all the foregoing reasons, this Court has original jurisdiction over this matter
9 under 28 U.S.C. section 1391(b).

10 WHEREFORE, Defendants pray that the above action now pending against them in the
11 Superior Court for the State of California, County of Orange, be removed to this Court.

12 **CERTIFICATE OF INTERESTED PARTIES**

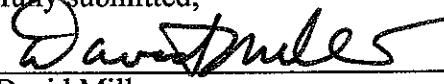
13 Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the
14 removing Defendants and Plaintiff, there are no interested parties, although the unserved
15 Defendant is aware of this action and, although it has not appeared, does not object to and joins
16 in the removal.

17

18 DATE: July 25, 2007

Respectfully submitted,

19 By


20 David Miller
21 Attorney for Defendants
22 NORTHWEST STAFFING RESOURCES,
23 INC., and RESOURCE STAFFING
24 GROUP, INC.